

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
AT MEMPHIS**

<b>KIMBERLY DIEI,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No. 2:21-cv-02071-JTF-cgc</b>
	)	
<b>RANDY BOYD, ET AL.</b>	)	
	)	
<b>Defendants.</b>	)	

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**OFFICIAL CAPACITY DEFENDANTS’ MOTION TO DISMISS THE FIRST, SECOND,  
AND THIRD CAUSES OF ACTION**

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The Official Capacity Defendants respectfully move the Court, pursuant to Rule 12(b)(6), to dismiss the First, Second, and Third Causes of Action with prejudice. By separate motion, the Individual Capacity Defendants are moving to dismiss the Fourth and Fifth Causes of Action. If both motions are granted, the entire lawsuit will be dismissed.

- The First and Second Causes of Action are asserted against all Defendants in their official capacities, and seek declaratory and injunctive relief invalidating the University of Tennessee Health Science Center’s Professionalism Rule as *facially* unconstitutional.
- The Third Cause of Action is asserted against all Defendants in their official capacities, and seeks declaratory and injunctive relief invalidating the University of Tennessee Health Science Center’s Professionalism Rule as unconstitutional *as applied* to the Plaintiff.
- The First, Second, and Third Causes of Action are without merit and fail to state a claim upon which relief can be granted, as explained in the accompanying Official Capacity

Defendants' Memorandum of Law in Support of Motion to Dismiss the First, Second, and Third Causes of Action.

Respectfully submitted this 1st day of March, 2021.

/s/ Frank H. Lancaster

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#### **CERTIFICATE OF SERVICE**

I hereby certify that on March 1, 2021, a copy of the foregoing motion was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt, and parties may access this filing through the Court's electronic filing system.

/s/ Frank H. Lancaster